



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/716,007	11/18/2003	Franz Josef Bohne	PO-7866/LeA 36,289	4200
157	7590	10/11/2005	EXAMINER	
BAYER MATERIAL SCIENCE LLC 100 BAYER ROAD PITTSBURGH, PA 15205			ORTIZ, ANGELA Y	
			ART UNIT	PAPER NUMBER

1732

DATE MAILED: 10/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/716,007

Applicant(s)

BOHNE ET AL.

Examiner

Angela Ortiz

Art Unit

1732

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 November 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 2 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 2 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 4/26/04;11/03
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-2 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, the phrases “(according to ASTM.....)” and “(according to DIN.....)” are unclear, and renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Further, the capitalized letters imply a trademark use or standard, which is not part of applicant's invention; the claim does not comply with the requirements of 35 U.S.C. 112, second paragraph because the identification/description is indefinite. See *Ex parte Simpson*, 218 USPQ 1020 (Bd. App. 1982).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of

Art Unit: 1732

the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Storch, USP 5,176,860 (of record) in view of Shah, USP 4,000,117.

The cited primary reference substantially teaches the basic claimed method of producing a composite molding wherein a cover, readable on the claimed film or cloth, is inserted in the mold, and a soft-foam reaction mixture is introduced into the mold. The mold lid is removed and a different sized lid is provided, which enlarges the mold cavity. A rigid-foam mixture is then introduced into the mold cavity, which bonds to the soft-foam mixture already provided. The foam mixture used for both mixtures includes polyurethane. See col. 1, lines 47-68; col. 4, lines 1-40.

The cited primary reference does not teach the claimed hardness ranges or the claimed density ranges.

The added secondary reference teaches as conventional the feature of providing novel polyurethane compositions, wherein both rigid and soft polyurethane materials can be formed from the composition. The novelty resides in forming soft materials having a hardness of about 67 Shore A durometer to about 73 Shore A durometer, and hard materials having a hardness of about 52 Shore D durometer to about 58 Shore D

Art Unit: 1732

durometer, both prepared in the same manner. See col. 3, lines 20-45. The claimed density ranges are equivalent to 0.8-1.6 g/cm³ units, most preferred include 1.05-1.25 g/cm³, and Table II of the added reference sets forth preferred density ranges of 1.1 – 1.22 g/cm³.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the hardness and density ranges as shown in the added reference, when performing the process set forth in the primary reference, wherein both can be prepared by the same method and yield equivalent results.

With respect to claim 2, see Table II of USP 4,000,117 and the discussion above.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. USP's 4131277; 5688054; 6126553; 6645415; 6482140; 6905648.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Angela Ortiz whose telephone number is 571-272-1206. The examiner can normally be reached on Monday-Thursday 9:00-6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Colaianni can be reached on 571-272-1196. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1732

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Angela Ortiz
Primary Examiner
Art Unit 1732

ao